**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE**

**WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929**

**WP(C).No. 19307 of 2005(W)**

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**AGAINST THE ORDER DATED 27/05/2005 IN EP.405/2003 IN OS.792/1998 of II ADDL.SUB COURT,THRISSUR**

**.....**

**PETITIONER:**

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**T.P.VISWANATHAN,**
**S/O.T.S.PARAMESWARA IYER,**
**SHANKAR NIVAS, SHORNUR ROAD, TRICHUR.**

**BY ADV. SRI.K.I.MAYANKUTTY MATHER**
**SRI.SUNIL SHANKER**

**RESPONDENT:**

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**YUVASAKTHI KURIES (P) LTD.,**
**CHEMBUKKAVU VILLAGE, TRICHUR.**

**BY ADV. SRI.G.SREEKUMAR (CHELUR)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

## APPENDIX

**PETITIONER'S EXHIBITS:**

**EXT.P1:** **COPY OF THE EXECUTION PETITION DTD. 6/09/2003.**

**EXT.P2:** **COPY OF THE OBJECTION FILED BY THE PETITIONER DTD. 1/10/2004.**

**EXT.P3:** **COPY OF THE ORDER IN E.P.405/2003 IN O.S.792/98 OF 2ND ADDITIONAL SUB COURT, TRICHUR DTD. 27/05/2005.**

**/TRUE COPY/**

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**PIUS C. KURIAKOSE,J.**

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W.P.(C) No.19307 of 2005

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Dated: 27th June, 2007

**JUDGMENT**

Ext.P3 order by which the execution court has directed incorporation of the objections which were filed by the petitioner-judgment-debtor to the notice under Order XXI Rule 66 is under challenge in this Writ Petition under Article 227 of the Constitution. Ext.P3 is impugned on the ground that it is a non-speaking order and that it is not necessary to sell the whole property for realisation of the decree debt which is only Rs.5 lakhs and odd. While admitting the Writ Petition this court imposed a condition for granting stay that a sum of Rs.1 lakh shall be paid within three weeks from 28.6.2005. Learned counsel for the petitioner is unable to assert before me that the above condition has been complied with by the petitioner. Whatever that be, considering the grounds raised in the Writ Petition and the fact that the only contention is that the correct market value of the property will be much more than the decree debt, I am inclined to dispose of the Writ Petition issuing the following directions:

The court below will verify whether the petitioner has remitted a sum of Rs.1 lakh as directed by this court within three weeks from 28.6.2005 or within any period subsequently enlarged by this court

under previous orders. If it is seen on such verification that payment has been made within the prescribed time, then the court below will hold up execution proceedings for another period of four months. It is open to the petitioner to identify a purchaser for a portion of the property in the meanwhile and to facilitate sale that portion of the property with the concurrence of the court below and the decree-holder. It is open to the petitioner to wipe off the decree debt in lump sum payments also.

The Writ Petition is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**